IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

RONALD CARTER and REVOLUTIONARY CONCEPTS, INC.,
Plaintiffs,

v.

EMMANUEL OZOENEH and JOHN DOES NOS. 1 THROUGH 7,
Defendants.

Civil Action No. 3:08cv614

JURY TRIAL DEMANDED

COMPLAINT

COME NOW the Plaintiffs, Ronald Carter, an individual ("Carter"), and Revolutionary Concepts, Inc., a corporation of the State of Nevada ("RCI"), by and through their counsel, complaining of the Defendants and for their complaint stating as follows:

THE PARTIES

1. Carter is a natural person and a resident of Matthews, North Carolina. Carter is the President of RCI and its single largest shareholder.
2. RCI is a public corporation, organized and existing pursuant to the laws of the State of Nevada and having its principal place of business at 2622 Ashby Woods Drive, Matthews, North Carolina.
3. Upon information and belief, Emmanuel Ozoeneh ("Ozoeneh") is a natural person who resides and regularly transacts business in Mecklenburg County, North Carolina.

4. Upon information and belief, the Defendants identified pseudonymously as "John Doe" are attorneys who are licensed to practice in the State of North Carolina or to practice before the United States Patent and Trademark Office, and who reside and/or regularly conduct business in Mecklenburg County, North Carolina.

JURISDICTION

5. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and is brought pursuant to 28 U.S.C. §§ 2201 and 2202, for a declaratory judgment that (a) the designation of inventorship currently appearing on United States Patent No. 7,193,644 ("the '644 patent"), a true copy of which is appended hereto as Exhibit A, is complete and correct, as required by the patent laws of the United States, 35 U.S.C. §§ 101 and 111; and (b) that RCI is the sole owner of the entire right, title, and interest in the '644 patent, by virtue of an assignment of same from Carter to RCI dated July 17, 2006, and duly recorded with the United States Patent and Trademark Office, pursuant to 35 U.S.C. § 261.

6. This Court has exclusive jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, in that this is a civil action arising under the laws of the United States; pursuant to 28 U.S.C. § 1338(a), in that this civil action arises under an Act of Congress relating to patents; and pursuant to 28 U.S.C. § 2201, in that this civil action seeks a declaration of the rights and other legal relations of the parties seeking the declaration, and there is an actual controversy between the Plaintiffs and the Defendants on a matter that is within the exclusive subject-matter jurisdiction of the Courts of the United States.

7. This Court has supplemental jurisdiction over the subject matter of the Plaintiffs' state-law claims, pursuant to 28 U.S.C. § 1367, in that those state-law claims are so related to the federal-question claims that they form part of the same case or controversy under Article III of the United States Constitution.
8. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1367(b), because Defendant Ozoeneh is a resident of this judicial district and because a substantial part of the property that is the subject of this action is situated in this judicial district.

INTRODUCTION

9. Carter is the inventor of technology that is known, variously, as the EYETALK Communicator and the "Automated Audio Video Messaging and Answering System," which is the subject of the '644 patent ("the Invention").
10. Prior to issuance of the '644 patent, Carter formed RCI to commercialize the Invention.
11. In approximately 2002, Carter met Defendant Emmanuel Ozoeneh ("Ozoeneh"), as Carter was in the process of finding investors to fund the development of a commercial embodiment of the Invention.
12. Ozoeneh represented to Carter that he was acquainted with one or more high net worth individuals who might want to invest in the enterprise.
13. Carter agreed to partner with Ozoeneh on the condition that he could secure funding for the enterprise.
14. While the two were working together, Carter retained a patent law firm, Dougherty, Clements & Hofer ("the Law Firm"), to assist him in securing patent rights for the Invention.

15. On October 15, 2002, the Law Firm filed a provisional patent application, Serial No. 60/418,384 ("the Provisional Application"), which mistakenly listed both Carter and Ozoeneh as co-inventors.

16. In fact, Ozoeneh had never contributed to the invention or to any of the technical aspects of the company, and it was a mistake of the Law Firm to list him as an inventor.

17. The Law Firm's decision to list Ozoeneh as an inventor was undertaken without Carter's input or consent.

18. Later, the Law Firm produced an opinion that the subject matter of the Provisional Application would not be patentable in its current form.

19. Around that time, upon information and belief, Ozoeneh convinced an individual to invest $60,000, but not with the enterprise. Instead, Ozoeneh took the money and opened a stereo equipment store, which has now closed.

20. Largely because of Ozoeneh's decision to open the stereo equipment store instead of focusing on commercializing Carter's invention, Carter and Ozoeneh decided that they would no longer be partners. Carter had no contact with Ozoeneh for more than five years.

21. After parting ways with Ozoeneh, Carter continued to develop the Invention by developing new features that would ultimately be found patentable.

22. On October 9, 2003, the Law Firm filed U.S. Patent Application Serial No. 10/682,185 ("the Nonprovisional Application"), claiming the benefit of the earlier provisional application, and correctly naming Carter as the sole inventor. The Nonprovisional Application was directed to devices that incorporate the new features developed by Carter alone.

23. After several years of ineffectual efforts by the Law Firm to obtain a patent for Carter, Carter and RCI hired a different law firm, Tillman Wright PLLC, to take over the prosecution of the Nonprovisional Application.

24. Tillman Wright's prosecution efforts were successful, and led to the issuance of the '644 patent on March 20, 2007.

25. After parting ways with Ozoeneh, Carter grew RCI to a company with 160 investors and took the company public.

26. Carter and RCI filed suit against the Law Firm, alleging malpractice in destroying Carter's and RCI's foreign patent rights through negligently failing to file timely foreign patent applications. That suit is currently pending in the North Carolina Business Court, No. 08 CVS 4333 (Meck.Co.).

27. Following contact between counsel for the Law Firm and Ozoeneh in connection with that suit, Ozoeneh has made public statements asserting that he is a co-inventor or the sole inventor of the subject matter of the '644 patent.

28. Ozoeneh has retained counsel, who have informed Carter and RCI's counsel of Ozoeneh's intention to sue Carter and RCI on the basis of Ozoeneh's claim of inventorship, threatening disruption of Carter and RCI's litigation against the Law Firm if a tolling agreement is not signed.

29. RCI is currently in licensing negotiations with two Fortune 500 companies that dominate the medical device field. These companies want to deploy the patented technology into the medical field, where they believe it will improve patient communications and lower nurses' workload. These licenses will be worth tens of millions of dollars to RCI.

30. Ozoeneh's threats of litigation, based upon false and wholly unfounded claims of inventorship, have a real potential to affect the ongoing negotiations to license the patented technology.

31. Upon information and belief, these threats of legal action against Carter's U.S. patent rights are part of a legal strategy by the defendants in the malpractice litigation to inflict collateral damage upon Carter and RCI.

32. The malpractice litigation arises solely from malpractice concerning the failure to secure patent protection in foreign countries and does not implicate the U.S. rights.

33. As such, attempts to call into question the U.S. rights bear no relevance to issues of foreign patent rights, and support no legitimate legal purpose.

34. Defendant Ozoeneh has no legitimate basis to make claims of inventorship of the Invention.

35. The John Doe Defendants have no legitimate basis to call Carter's sole inventorship or RCI's ownership of the '644 patent into question.

36. If the Defendants are not enjoined from making such claims, Carter and RCI will be irreparably damaged.

37. Upon information and belief, the Defendants, whether individually or collectively, lack assets sufficient to compensate Carter and RCI for losses associated with the failure of even a single license agreement.

COUNT I
Declaratory Judgment of Inventorship and Ownership of Rights
(Against Defendant Ozoeneh)

38. The Plaintiffs repeat and re-allege the allegations in the above numbered paragraphs.

39. Carter is the sole inventor of the Invention.

40. RCI is the sole assignee and sole legal and equitable owner of the entire right, title, and interest in the Invention and the ‘644 patent.

41. Ozoeneh has made statements which challenge and threaten Carter’s claim of sole inventorship of the Invention and the ‘644 patent and which call into question the validity of the ‘644 patent.

42. Specifically, Ozoeneh has claimed to be an inventor of the Invention.

43. Ozoeneh has threatened legal action directly through communications from his attorneys and indirectly by making statements, under oath, that upon information and belief indicate that he believes he is a co-inventor or the sole inventor of the subject matter of the ‘644 patent.

44. The above statements and threatened legal action place a cloud over Carter’s claim of inventorship, over the validity of the ‘644 patent, over RCI’s ownership of the ‘644 patent, and over RCI’s ability to generate licensing and sales revenue on the basis of its ownership of the ‘644 patent.

45. As such, there is an actual case and controversy between the parties regarding the inventorship and ownership of the granted patent and other pending patent rights, and the Plaintiffs therefore seek declaratory judgment from the Court, pursuant to 28 U.S.C. § 2201, as indicated herein.

COUNT II
Breach of Contract
(Against Ozoeneh)

46. The Plaintiffs repeat and re-allege the allegations in the above numbered paragraphs.

47. Carter and Ozoeneh agreed to sever their business ties in 2003.

48. At the time of the agreed dissolution, both parties agreed that there were no existing liabilities.

49. The agreement acted as a contract of mutual release between Carter and Ozoeneh.

50. That contract inured to the benefit of RCI by virtue of RCI's succession to the business of Carter relating to the Invention.

51. Ozoeneh now makes claims in contradiction to the agreement.

52. Carter has been damaged by this breach.

COUNT III
Tortious Interference with Contract
(Against John Doe Defendants)

53. The Plaintiffs repeat and re-allege the allegations in the above numbered paragraphs.

54. Carter had a valid contract of mutual release with Ozoeneh, which conferred upon Carter a contractual right against Ozoeneh.

55. That contract inured to the benefit of RCI by virtue of RCI's succession to the business of Carter relating to the Invention.

56. Upon information and belief, the John Doe Defendants knew of the agreement between Carter and Ozoeneh.

57. Upon information and belief, the John Doe Defendants intentionally induced Ozoeneh to breach the contract.

58. Such inducement was without justification of any type, and indeed was undertaken in bad faith and with malice in an attempt to improve the position of the defendants in the malpractice litigation by harming Carter and RCI.

59. As a direct and proximate result of this interference, Carter and RCI have been damaged to the extent that Ozoeneh's unfounded claims have called into question Carter's sole inventorship of the Invention and RCI's ownership of the Invention and the '644 patent.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully pray the Court to grant them the following relief:

A. A declaration that the inventorship as described in the '644 patent is complete and correct, that Ronald Carter is the sole inventor of the technology underlying the '644 patent, and that RCI is the sole legal and equitable owner of the entire right, title, and interest in the '644 patent;

B. Injunctive relief, to wit: an order preventing the Defendants and any person in privity or association with them from making public statements regarding the inventorship or ownership of the invention or from contacting by any means any prospective or current business partner, licensee, investor, or customer of RCI;

C. Actual and enhanced damages on the Plaintiffs' state-law claims;

D. A designation of this case as exceptional pursuant to 35 U.S.C. § 285, together with an award of attorney fees;

E. Taxation of the costs of this action against the Defendants;

F. A trial by jury on all issues so triable; and

G. Such other and further relief as the Court deems just and proper.

Respectfully submitted this 30th day of December, 2008.

THE HARRINGTON PRACTICE PLLC

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